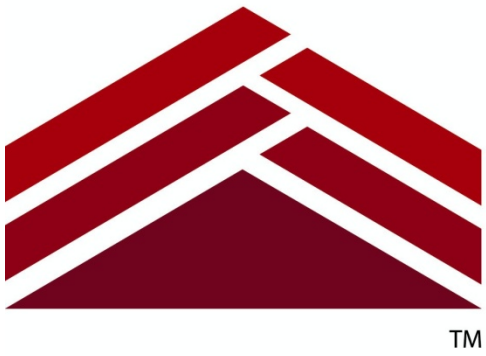

CONSTRUCTION
SUPPLIERS
ASSOCIATION

CONSTRUCTION SUPPLIERS ASSOCIATION POSITIVE EMPLOYEE RELATIONS DESK BOOK

Prepared By
Jackson Lewis LLP

CONSTRUCTION SUPPLIERS ASSOCIATION
POSITIVE EMPLOYEE RELATIONS DESK BOOK

I. HOW TO USE THIS DESK BOOK

In CSA's continuing desire to improve member services, the idea of this desk book was born. This book is intended to provide members' executives and managers with a source of information and guidance in attaining positive employee relations at their individual companies. Use this book as a starting point for auditing, modifying, and developing your own personnel practices and procedures that are best suited for your individual corporate culture. We hope that you use this book as a true "desk book." Keep it handy and refer to it often in managing employees.[1]

[1] This desk book is intended only as a guide to provide general information on the topics discussed here. It is not intended as legal advice on particular matters. Since many of the issues addressed in this desk book are legal in nature, a review of the specific facts relevant to the particular member company should be made prior to implementation of any of the concepts set forth here. Accordingly, members are strongly advised to consult with counsel concerning the applicability of any of the matters discussed in this desk book to their particular companies and to the particular situation at issue.

II. PRACTICING "POSITIVE EMPLOYEE RELATIONS": AN INTRODUCTION

What does it mean to practice "positive employee relations?" It is a business philosophy founded on one basic rule: "treat employees as you wish to be treated." In essence, you strive to ensure that when an employee comes to work for your company, he/she knows what your company expects from him/her and what he/she can expect from your company. Practicing positive employee relations means anticipating employee-related problems before they result in formal grievances, deterioration of morale, union organizing activity, federal and state agency proceedings, or litigation. The goal of positive employee relations is to create a work environment where employees recognize that their interests and those of the company are closely aligned. Positive employee relations also seeks to build employee morale, loyalty and commitment to the company and its customers. Positive employee relations can only be reached through a solid, structural personnel program in which employees' problems are identified and addressed in a clear and timely manner.

Implementing a positive employee relations program at your company serves numerous important purposes. The chance that an employee will feel the need to turn to a third party, such as a labor union or a government agency, is significantly decreased. Additionally, educating your supervisory and managerial staff about employee and management's rights and responsibilities will help to avoid unwitting violations of both state and federal employment laws.

Your positive employee relations program must be carefully developed and nurtured. It cannot be created overnight or after a crisis arises. Rather, it is the result of careful planning and solid building. It must be maintained with single-minded dedication. Such a program, to be effective, must be a high priority of the management. It will require great effort at all management levels, but it will return its worth to your company many times over. In an effort to assist members, CSA, in conjunction with its Employment Counsel, Jackson Lewis LLP, has developed this Positive Employee Relations Desk Book, a guidebook for establishing an effective positive employee relations program.

A comprehensive positive employee relations program has four major components:

The Positive Employee Relations Audit

Positive employee relations can only be attained when managers and supervisors accept the following principle: employees have legitimate needs that they expect to be met by management. If you want to avoid the pressure of an outside third party in your relationships with your employees, management must take the lead in satisfying employee needs. The positive employee relations audit is designed to identify company and employee needs and to identify and correct potential problem areas. More specifically, those personnel policies or practices that

could lead to the filing of discrimination charges, lawsuits, or that could become issues in a union organizing campaign are addressed and resolved, thus preempting these demoralizing and costly procedures.

The Positive Employee Communications Program

A key component in any positive employee relations program is an effective two-way communication system designed to (1) provide both formal and informal avenues by which employees are encouraged to "speak their minds" to management and (2) have management communicate with employees on a formal regular basis.

Developing an Internal Dispute Resolution Procedure

Employees have become more and more prone to sue or report employers to a government agency over the years. Through the bombardment of television, many employees may come to your company with heightened and sometimes unrealistic expectations. The goal of your positive employee relations program is to honestly and consistently set forth exactly what your employees can expect from your company and what you expect from them. That is only one part of the program, however. Where there are differences of opinion or interpretations of personnel policies, there will be issues that must be resolved. For the most part, employees would much rather resolve issues internally than have to utilize a federal agency or contact an outside lawyer to represent them. If you develop a formal dispute resolution procedure which sets forth clear steps for addressing employee complaints and questions, you will provide employees with a prompt and effective review of those complaints and problems and go a long way to avoiding the cost and disruption of outside interference from government agencies, attorneys and unions.

Managerial and Supervisory Education and Training

The fourth major component of the preventive program is the education and training of your company's management and supervisory team in certain critical areas. These areas include an understanding of management rights and obligations under the various federal and state labor and equal employment opportunity laws, and supervisory human resource skills.

We trust that this desk book will be of invaluable assistance in the development of a vital, positive employee relations program for member companies. Sample policies and procedures implementing and enforcing the information in this desk book can be provided upon request.

III. IDENTIFYING PROBLEM AREAS BEFORE THEY BECOME PROBLEMS . . . THE EMPLOYEE RELATIONS SELF-AUDIT

It is important to look within your company and audit where it is today in the area of positive employee relations. To help, we have developed the following self-test for you to complete.

YES	NO		
☐	☐	1.	We know which labor and employment laws apply to our particular company, and which do not.
☐	☐	2.	We have posted all required state and federal employment law notices in the plant for employee information.
☐	☐	3.	We have developed formal written hiring practices, policies, and procedures for recruiting the best applicants in a lawful manner.
☐	☐	4.	We have a formal orientation program for new employees, designed to make them become efficient and productive as quickly as possible, and believe in our positive employee relations philosophy.
☐	☐	5.	We give each employee a copy of our employee handbook, which contains the company's philosophy, policies and benefits.
☐	☐	6.	We have developed a formal procedure for evaluating each employee on an annual basis.
☐	☐	7.	We have established a formal internal problem-solving procedure, so that employee complaints can be addressed quickly and fairly.
☐	☐	8.	We have a formal progressive discipline procedure, designed to rehabilitate employees, rather than simply terminate them.
☐	☐	9.	We know which employees need to be paid overtime under the law, and which employees do not.
☐	☐	10.	We maintain up-to-date OSHA records, manuals, and training programs mandated by the law.
☐	☐	11.	We have published and distributed to all employees our company's policy against sexual harassment and other unlawful harassment.

YES	NO		
☐	☐	12.	We have developed a lawful drug-free workplace program.
☐	☐	13.	All our supervisors and managers have been trained in their rights and responsibilities under the National Labor Relations Act.
☐	☐	14.	All our supervisors and managers have been trained in their rights and responsibilities under the Georgia and federal anti-discrimination laws.
☐	☐	15.	Our supervisors have been trained in positive human resource management techniques.
☐	☐	16.	We have a formal two-way communication program providing for regular one-on-one discussions, weekly department meetings, and periodic company-wide meetings.
☐	☐	17.	We participate in annual wage and benefit surveys to determine whether we are compensating employees competitively.
☐	☐	18.	We have a formal procedure for employees to bid on job openings, before we hire from the outside.
☐	☐	19.	Our personnel policies and procedures are reviewed at least once each year, to ensure they comply with current labor and employment laws.
☐	☐	20.	Exit interviews are given to all employees, as one means of assessing our positive employee relations program.

If you answered "no" to any of these questions, consider what you need to do to meet each of these criteria. This desk book will help you develop policies and procedures necessary to meet these criteria and develop a positive employee relations program. No book can address every contingency you may face, so be sure to check with your employment counsel before implementing your positive employee relations program.

IV. COMPLIANCE WITH LABOR AND EMPLOYMENT LAWS

So-called "employee protection" laws form the basis for most governmental investigations and civil actions against your company. Below is a very brief summary of some of the most relevant laws.

Employment Laws in a Nutshell

1. Title VII of the Civil Rights Act of 1964

Prohibits discrimination based on race, color, religion, sex or national origin. Additional information on Title VII and other federal anti-discrimination laws addressed below can be found at the Equal Employment Opportunity Commission 's ("EEOC") website at www.eeoc.gov.

In 1978, the **Pregnancy Discrimination Act** amended Title VII and clarified that pregnancy and related conditions must be treated the same as other medical conditions in the application of employer policy and benefits.

The Civil Rights Act of 1991 amended Title VII again and provides compensatory and punitive damages to injured parties, along with jury trials.

2. Equal Pay Act of 1963

Prohibits pay differentials based on sex. Employers may not pay employees of one sex less than they pay employees of the opposite sex for work that requires equal skill, effort and responsibility and is performed under similar conditions.

3. Age Discrimination in Employment Act ("ADEA")

Prohibits discrimination against individuals over the age of 40.

4. Executive Order 11246

Bans discrimination the bases of race, sex, handicap and veteran status, and requires affirmative action on the part of certain federal government contractors. **Executive Order 11141** prohibits discrimination on the basis of age by government contractors.

5. Vocational Rehabilitation Act of 1973

Prohibits discrimination against disabled persons by federal contractors who also are required to take affirmative action in hiring qualified individuals.

6. **Uniformed Service Employment and Reemployment Rights Act ("USERRA")**

Prohibits discrimination against and provides for leave of absence rights for those employees who serve in the military.

7. **Civil Rights Act of 1866**

Prohibits racial discrimination in private employment.

8. **Fair Labor Standards Act ("FLSA")**

Requires minimum rates of pay and overtime premium pay for most non-managerial employees. Additional information on the FLSA can be found on the United States Department of Labor's website at www.dol.gov.

9. **Polygraph Protection Act**

In most circumstances, prohibits the use of "lie-detector" tests either for pre-employment screening or during the course of employment. Generally, an employee or applicant may not be denied employment, discharged or disciplined for refusing to take a polygraph test.

10. **Worker Adjustment and Retraining Notification Act ("WARN")**

In most cases, requires 60 days' written notice prior to closing or a mass layoff at a facility with at least 50 employees.

11. **Americans with Disabilities Act ("ADA")**

Prohibits discrimination by private employers against qualified persons with disabilities.

12. **Family and Medical Leave Act ("FMLA")**

Requires covered employers to provide up to 12 weeks of unpaid leave to employees for certain family-related or medical reasons. Additional information on the FMLA can be found on the United States Department of Labor's website at www.dol.gov.

13. **State Laws**

Vary by state. Typically states with such laws have enacted statutes that prohibit job discrimination on the bases of race, religion, color, national origin, age, sex, marital status, disability, ancestry or service in the armed forces; prohibit retaliation for filing a workers' compensation or safety claim or reporting legal violations (such as safety hazards) to appropriate

authorities. For example, Georgia has laws prohibiting age and sex discrimination in employment.

The best protection against costly and time-consuming defenses of practices and actions that may be questionable or even illegal is to avoid violating these laws. Accordingly, a critical element of a positive employee relations program is a review of the company's personnel policies and practices to ensure that they are in compliance with applicable labor, equal employment opportunity, wage-hour, safety and pension laws.

Auditing Equal Employment Opportunity Policies and Procedures

All terms and conditions of employment including recruitment, promotion, compensation and other personnel practices must be in compliance with federal and state equal employment opportunity laws. Besides insuring that individuals are not given disparate treatment, your company should insure that its policies do not have an adverse discriminatory impact on a certain protected group as a whole.

Jackson Lewis can audit your current EEO policies and procedures and recommend changes or additions to your current practices. Alternatively, Jackson Lewis can provide you with an EEO Self-Audit Checklist that can be utilized in conducting an analysis of the legality of your company's personnel practices.

A few important EEO issues require more detailed discussion.

Preventing Illegal Harassment

In 1998, the United States Supreme Court issued two decisions that define employer liability under Title VII for sexual harassment by supervisors. In so doing, the Court re-shaped the legal landscape of an employer's liability for the conduct of its supervisors and outlined preventive measures that may avoid such liability. Following these decisions, employers should take steps to assure they have: (a) a clearly communicated written policy prohibiting all forms of sexual harassment; (b) a credible complaint resolution procedure, including a well-defined prohibition against retaliation; and (c) a comprehensive program for training supervisors and employees on the contents of the policy and use of the complaint procedure.

Jackson Lewis can provide non-harassment policies that should be included in your employee handbook and/or communicated through other written memoranda.

The following are some practical steps you can take to prevent harassment in your workplace:

1. Implement a strong policy against harassment. In implementing such a policy, an employer is not seeking to regulate its employees' morality. It is taking a necessary step to reduce the likelihood that the law will be violated and the employer found liable. This policy may serve to discourage employees from harassing other employees, and thereby reduce the

possibility that claims will be made or lawsuits filed against the employer.

a. In any event, where such claims are made, the existence of the policy can assist an employer in avoiding liability for a violation of federal law. As noted above, courts generally hold that an employer may be relieved of liability under Title VII for harassment where the employer can show that it had an official policy against sexual harassment and where the harassment took place without the employer's actual or constructive knowledge or that the consequences were rectified when discovered.

b. The policy puts the employer on record as being strongly opposed to harassment of any of its employees.

c. The policy also encourages employees who have been victimized by such conduct to bring it to the attention of officials, who may then take appropriate action.

(1) The action to be taken should be determined on a case-by-case basis.

2. Communicate these policies to supervisors and employees.

a. This can be done in writing and/or verbally at group meetings.

3. Sensitize supervisors to the impropriety of uninvited advances, such as sexual advances.

a. Group meetings are usually more effective in sensitizing supervisors.

4. Establish a formal complaint procedure by which an employee may bring a claim to a designated management official or any other management official if for some reason the employee does not wish to take the claim to the designated management official.

5. Assign an official to receive harassment complaints and to investigate and remedy violations of the employer's policy.

a. Obtain information about the alleged harassment from the harassee. Ask for "documenting facts" about the incident, including what was said and done, and what the harassee regards as "inappropriate behavior."

b. Notify the harassee's immediate supervisor or manager and any personnel officials. If the harassee is an employee covered by a collective bargaining contract, a union representative should also be contacted. For other employees, contact the appropriate official who

has been designated to handle such complaints.

c. Investigations should be confidential to the extent possible, and the nature of such investigation should be revealed strictly on a need-to-know basis.

d. All purported witnesses or those who may have knowledge should be interviewed.

e. The alleged harassor should not be identified to third party witnesses.

f. The investigation process should be documented as it proceeds.

g. Documentation of the investigation process should be segregated from the personnel files of the employees involved, unless it is concluded that harassment occurred and discipline is imposed.

h. The harassee need not be informed of the nature of the discipline imposed; except he/she can be informed that the matter has been investigated, appropriate action has been taken and the employer expects that it will not occur again.

i. The harassee should be reassured that no retaliation will be permitted.

6. Take corrective action whenever and wherever necessary.

a. Protect the harassee:

(1) Transfer (but only if the harassee willingly agrees to such transfer)
(2) Promotion
(3) Employment
(4) Reinstatement
(5) Raise

b. Discipline the harassor:

(1) Transfer
(2) Verbal caution
(3) Written warning
(4) Suspension
(5) Discharge

Managing Disabled Applicants and Employees.

Since the passage of the Americans with Disabilities Act of 1990 ("ADA"),

more qualified individuals with physical or mental disabilities have been entering the work force. Congress bolstered the protections afforded to disabled individuals in 2008 with the passage of the ADA Amendments Act ("ADAAA"). The ADAA, which became effective January 1, 2009, makes it easier for individuals seeking protection under the ADA to establish that they have a disability. ADA compliance is achieved, in large part, by treating employees on an individual, case-by-case basis, not as a common group. Under the ADA, your company should develop and maintain personnel policies and procedures that will guide supervisors in (1) hiring and employing disabled individuals on a non-discriminatory basis, and (2) providing reasonable accommodations to disabled individuals so that they may perform essential functions of their jobs.

While ADA compliance is evaluated on a case-by-case basis, there are certain steps that every company should take to help ensure compliance with the ADA, including:

1. Review advertisements of available positions to determine if they discourage individuals with disabilities from applying.

2. Consider stating in advertisements that work locations are accessible to the disabled.

3. Review employment applications for questions regarding whether an applicant has a disability, has ever filed a workers' compensation claim, or the nature or severity of any disability. Delete these references.

4. Consider including language on the application that asks whether the applicant has the ability to perform essential job-related functions.

5. Ensure that the application includes an EEO statement that includes "disability" among the bases upon which the Company will not discriminate.

6. Train interviewers on what they may and may not ask applicants and what to do or say in the event an applicant states that he or she is disabled.

7. Train managers, supervisors and interviewers regarding the Company's obligations relating to the ADA.

8. If applicable, review the Company's pre-employment medical examination policy to ensure that medical examinations are administered only after a conditional offer of employment has been made. In such situations, ensure that disabilities discovered during medical examinations are evaluated on the basis of whether they are job related.

9. Ensure that information regarding the medical condition or history of an applicant or employee is kept separate from other records and maintained in a confidential, need-to-know only basis.

10. Review any employee health programs to ensure that medical examinations are voluntary and information obtained under the program is kept confidential and in a separate file.

11. Prepare job descriptions for each position in the Company. The job descriptions should identify the "essential functions" of the job and the non-essential (desirable/marginal) functions. (It is permissible and recommended that "and all other tasks as assigned" be included as non-essential job functions.)

12. Review employment policies, including handbooks, EEO statements, eligibility for benefits statements and non-harassment policies, to ensure that they do not discriminate against qualified individuals with disabilities with respect to terms, conditions and privileges of employment and that disability is included in the list of protected categories.

13. Ensure that performance evaluations, wage increases and promotional opportunities are administered in a manner that does not discriminate against qualified individuals with disabilities.

14. Review facilities to make sure that qualified individuals with a disability have equal access to physical facilities and social and recreational activities sponsored by the Company.

15. Review drug and alcohol testing procedures to ensure compliance with the ADA.

16. Review third party contracts, including collective bargaining agreements, insurance contracts and contracts with vendors or customers, to ensure that they do not discriminate against disabled applicants and employees.

17. Post the required EEOC posters advising employees that discrimination in employment on the basis of disability is unlawful.

18. Consider formal communications to employees of the requirements imposed upon the Company by the ADA and the Company's intent to comply with the letter and spirit of the law.

19. Analyze facilities to determine if integrated settings are provided for individuals with disabilities.

20. Review leases to determine responsibilities for making facilities accessible to the disabled.

21. Review plans for new facilities or major modifications of existing facilities to determine if structural barriers exist.

22. Review operations to determine if individuals with disabilities are denied or otherwise provided unequal access to goods or services.

23. Review operations to determine if individuals with disabilities are provided different or separate goods or services.

24. Determine whether any policies, practices, procedures or operations must be modified to afford goods and services to individuals with disabilities.

25. Assess potential barriers created by the location of temporary or movable structures, and to the extent possible, remove such barriers.

26. With new construction, determine whether the newly constructed company is readily accessible to and usable by individuals with disabilities.

27. Consider having your law firm conduct an ADA audit of your operation and its employment policies and practices.

28. Identify and list all potential sources of assistance in your area or available to your Company (including other operations and the Corporate office) for identifying means of reasonably accommodating disabled individuals.

29. Establish an "ADA Compliance Team" whose goals are to ensure that the Company complies with the ADA.

30. In preparing for compliance with the ADA and in every other action taken at your operation, consider the impact of the action - or intention - upon a jury in the event that a charge of discrimination is taken to court.

V. THE ART OF HIRING EMPLOYEES

You can save significant costs, financially and otherwise, by making smart hiring decisions. It is much easier to have never hired a particular individual than to terminate him or her. A poor hiring procedure or decision can prove one of the costliest mistakes an employer will ever make.

Intelligent, detailed, and comprehensive hiring procedures should be implemented so that the right person is hired for your own particular company. The Printing Industry Association of Georgia is an excellent source for recruiting applicants for your company's openings. Regardless of the sources you use for recruiting applicants for job openings, your company must remain in control of the entire recruitment process. This includes the use of a lawful and comprehensive employment application, a lawful interviewer's guide containing permissible and impermissible questions, and a legal method to attempt to obtain as much information as possible about the applicant through references.

The Employment Application Form

The employment application is usually the employee's first formal introduction to the employer. While the employment application continues to be a valuable tool in the overall recruitment program, there are strict rules concerning what can and cannot be contained in an employment application. A lawful and effective employment application should provide three major pieces of information about the applicant: (1) the applicant's educational and technical training, (2) the applicant's employment history, and (3) reference sources.

In large part, the application is the first pre-employment test for applicants. They are asked to respond to questions posed in an intelligent and forthright manner. They are asked to follow directions in completing the task at hand, i.e. providing data about their job-related qualifications. Pay close attention to the accuracy and thoroughness of the completed job application.

The employment application is also a legal document. Invariably, when an employer receives a discrimination charge alleging the employer unlawfully failed to hire an individual, the Equal Employment Opportunity Commission ("EEOC") will ask the employer to send the applicant's employment application to the EEOC for its review. Accordingly, employers should ensure that employment application questions comply with current federal and state employment laws. Just as importantly, applications should not contain interviewers' written comments that could later be interpreted as evidencing unlawful bias. Any interview notes should be made on a

The Employment Interview

The employment interview is probably the most important aspect of the recruitment process. Unfortunately, employers do not always ask the right questions during an interview, both from a legal and a practical standpoint. For example, an

employer may ask about an applicant's education, skills, and other technical questions but not about an applicant's desire to work for the company. Some employers also do not pose pertinent job-related questions about an applicant's attitude towards work and supervision (e.g. define a good supervisor for me, explain the best thing about your current job, etc.).

It is difficult for some supervisors to patiently wait for a response after asking a question. Supervisors are often very willing to explain the company and its operations, and the available position, but fall short in one basic area: it is the applicant who is being interviewed and not the supervisor. It is, therefore, important that the supervisor ask open-ended questions, wait for a response, and determine whether any other follow-up questions are appropriate.

Suggested Interview Questions

1. PREVIOUS EMPLOYMENT (Ask these questions for each prior job listed)

    a. How large a Company did you work for?

    b. What job did you last perform?

    c. How did you like it?

    d. What did you like best about the job?

    e. What did you like least about it?

    f. Why did you leave your former employer?

    g. Did you receive performance reviews?

    h. What rating did you receive?

    i. What areas or job skills were identified as weaknesses or areas/skills in which you needed improvement?

    j. What kind of references would you receive from your former employer?

    k. What would your previous supervisor say about you?

    l. What would your previous co-workers say about you?

    m. Would you be rehired?

2. PRIOR WAGES

a. What were your wages at your prior job(s)?

b. Were you satisfied with your level of wages?

c. If not, why?

d. How frequently were increases given?

e. What were they based upon -- merit, productivity or something else?

f. How many increases did you receive, if based upon merit?

g. How do you think employees should be compensated?

3. FRINGE BENEFITS

a. What benefits did you receive at your prior job(s)?

b. What did you think of the fringe benefits provided at your previous employer?

c. Did you pay any part of your insurance coverage?

d. How were you advised by the prior employers as to your benefits -- insurance booklets, employee memo, bulletin board notices, handbook?

e. How frequently were benefits changed?

f. Did you feel that you were provided sufficient information concerning benefits?

4. PROMOTIONS

a. Were you ever promoted in your prior job(s)?

b. On what basis were you promoted -- length of service, merit?

c. How do you think employees should be promoted?

5. PRIOR SUPERVISORS

a. What did you think of your supervisor(s)?

b. Did you get along with them?

c. What kind of person was your prior supervisor: a strict disciplinarian,

easy going?

d. What kind of supervisor do you like to work for?

e. What is it you expect from a supervisor?

6. COMPLAINT RESOLUTION

a. How were employee problems and complaints solved at your prior job(s)?

b. Was there a formal procedure in place?

c. Did you think it was a good procedure?

d. Did your supervisor(s) have an open door?

e. Did you utilize the open door policy?

f. What complaints did you raise at your previous employment?

g. How would you like employee problems and complaints handled if you were employed by this organization?

7. JOB APPLYING FOR

a. What position are you applying for?

b. What kind of job duties are you interested in?

c. Why do you feel qualified for this job?

d. What skills and experience do you think would be important for the job you are applying for?

<u>What Not to Ask During an Interview</u>

1. Do not ask the applicant how old he or she is.

2. Do not ask the applicant his or her date of birth.

3. Do not ask the applicant what his or her previous address was.

4. Do not ask the applicant what church he or she attends or the name of his or her priest, rabbi or minister.

5. Do not ask the applicant what his or her father's surname is.

6. Do not ask the female applicant what her maiden name was.

7. Do not ask applicants whether they are married, divorced, separated, widowed or single.

8. Do not ask applicants who resides with them.

9. Do not ask applicants how many children they have.

10. Do not ask the ages of any children of applicants.

11. Do not ask who will care for children while the applicant is working.

12. Do not ask how the applicant will get to work, unless owning a car is a job requirement.

13. Do not ask the applicant where a spouse or parent works or resides.

14. Do not ask the applicant if he or she owns or rents his or her place of residence.

15. Do not ask the applicant the name of his or her bank or any information as to amount of loans outstanding.

16. Do not ask the applicant whether he or she has ever been arrested.

17. Do not ask the applicant whether he or she ever served in the armed forces of another country.

18. Do not ask the applicant what clubs or social organizations he or she belongs to.

19. Do not ask the applicant what foreign languages he or she can speak, read or write (unless job requirement).

20. Do not ask the applicant if he or she is for or against unions or whether the applicant was ever a union member.

21. Do not write anything on the application form, except, if so desired, information as to:

    a. Date to begin work, department, salary.

    b. Job related reason for rejection such as lack of necessary qualifications or experience, not legally permitted to work in U.S.A., no working papers or work permits.

22. Do not ask applicants whether they have a disability or impairment that would prevent them from performing the essential functions of the job.
23. Do not ask applicants whether they previously had workers' compensation claims or injuries.

Avoiding Negligent Hiring Decisions

The Initial Meeting:

1. Provide application, which has been reviewed by legal counsel, to prospective employee.

2. Meet applicant face-to-face in private area.

3. Review the blank application to explain required information and to answer applicant's questions.

4. Instruct applicant to answer all questions and provide complete information.

5. Carefully review completed application.

6. Confirm accuracy of spelling and addresses concerning past employment, references, educational institutions, etc.

7. Ask the applicant about any gaps in employment history. (Applicant should be able to explain any periodic lack of employment to your satisfaction.)

8. Ask the applicant if you will need additional information concerning name changes or use of other names for purposes of checking references and work record.

9. Review the applicant's educational training if it has a bearing on the job applied for.

10. Ask about the applicant's military experience in United States Armed Forces with dates and conditions of discharge if the military experience has any relation to the job applied for. It should be made clear to applicants that a discharge which is less than honorable will not automatically bar an offer of employment.

11. Ask if the applicant has been convicted of a crime. Do **not** ask if an applicant has been arrested. Explain that a criminal conviction will not automatically bar employment.

    In determining whether or not to deny employment based on an applicant's conviction of a crime, you must consider the following facts:

a. The relationship of the crime to the job duties;
b. The nature, number and circumstances of the offense(s) for which the individual was convicted;
c. The length of time intervening between the conviction(s) and the employment decision;
d. The individual's employment history; and
e. The individual's efforts at rehabilitation.

12. If the applicant's duties will require driving, ask if he has a valid driver's license and ask him to summarize his driving record for you.

Ordinarily, it is unlawful to ask an applicant when he was born. However, some states require the applicant's date of birth before you can receive driving information. If that is the case, you should explain this to the applicant and make clear that the only reason you need this date of birth is to check motor vehicle records. Also, be sure to limit this inquiry only to those who will be driving on the job.

After The Initial Meeting:

1. Check all personal/character references of the applicant. (If you discover the references are generally family members, for example, ask the applicant for other references.)

a. How do they know him?

b. How long have they known him?

c. Upon what is the reference based? (Personal observation/secondhand information?)

d. Do you need to ask the applicant for more current references?

e. Document all comments you receive.

2. Check all professional/employment references.

a. Determine job duties. (Do they coincide with those on the application?)

b. Determine length of employment.

c. Determine reasons applicant left previous job.

d. Determine if former employer was satisfied with applicant's performance.

e. Document all comments you receive (but not on the application).

3. Confirm educational information provided by applicant.

4. Order a copy of applicant's driving record, if driving is required for the job.

5. If you are concerned about the applicant's criminal past and its effect on his or her fitness for the job, you may want to obtain a copy of the applicant's criminal record. Each state has different rules concerning the availability of these public records. Some possible sources of information are: the state police, the office of the state Attorney General, offices of the county clerk in the counties through the state, district attorney's offices, and your attorney.

6. Request a consumer credit report from a consumer reporting agency, if necessary. (Note, however, that you must comply with the Fair Credit Reporting Act and similar state acts.)

7. Speak with the applicant again if you need clarification or additional information.

8. Review the application and the information about the applicant with other decision-makers within the organization.

9. Discuss the applicant in detail.

10. Decide.

VI. **EMPLOYEE PERFORMANCE EVALUATIONS**

Purpose of Periodic Evaluations

1. To observe the performance of employees;

2. To interpret those observations in terms of basic qualities of temperament, character and ability; and

3. To use the information obtained in the administration of personnel procedures

    a. In training employees;

    b. In determining promotions;

    c. For employee guidance;

    d. In making wage adjustments; and

    e. In disciplining employees.

Importance of Performance Evaluations to Management

1. Promote employee satisfaction by assuring fair treatment of all employees;

2. Inventory of skills and abilities of employees;

3. Assist company with promotions from within;

4. Provide a fair basis for merit increases; and

5. Provide support for disciplinary action or layoff.

Importance of Performance Evaluations to Employees

1. Employees want to know and have a right to know how they are doing in their work;

2. Employees can't overcome weaknesses when they are unaware of them;

3. Provides employees with an opportunity to ask questions;

4. Clears up any misunderstandings about what is expected of employees; and

5. Helps build strong relationships based on mutual respect and confidence.

Preparing for the Evaluation Interview

1. Select a time for the discussion:

    a. When you will have enough time to fully discuss your points and anything the employee may bring up;

    b. When you will not be interrupted;

    c. Not soon after a disciplinary action or argument with the employee; and

    d. When both you and the employee are in a good mood.

2. Select a place to conduct the interview:

    a. A private place, where others will not see or hear you; and

    b. A place where the employee will feel relaxed and comfortable;

3. Rate the employee carefully before the evaluation interview:

    a. Consider his personality, record, experience, and training;

    b. Evaluate his strengths and weaknesses;

    c. Review and weigh the factors that entered into your evaluation; and

    d. Bring to mind specific facts or examples from the employee's job performance to back up your opinions.

4. Things to consider before talking to the employee about his performance:

    a. How much can be discussed and understood in the time available;

    b. Which two or three points are most important and how can they best be brought to the employee's attention;

    c. What will be the employee's reaction and how will you handle it;

    d. Will you be able to support your rating with facts;

    e. What corrective action do you want the employee to take; and

    f. How will you help the employee to improve.

Things to Avoid When Evaluating Employees

1. Avoid the "halo" effect (rating the employee higher than his or her performance merits, or rating the employee higher in some categories when not merited based on good performance in other categories);

2. Don't evaluate without a standard for comparison;

3. Don't let length of service affect the evaluation;

4. Don't let personal feelings bias your evaluation;

5. Don't base your evaluation on vague impressions; and

6. Don't rate emotionally.

Tips for Conducting the Performance Evaluation Interview

1. Be sincere and genuinely interested;

2. Try to relieve tension at the outset;

3. Communicate good things first, and show appreciation of past successes;

4. Talk generally about the employee's status at the outset;

5. Ask the employee to evaluate himself;

6. Address past failures and move on;

7. Build upon strengths. Guide the discussion toward prevention of future failures and plans for success;

8. Allow for "face saving"—don't humiliate the employee;

9. Let the employee talk;

10. Close the interview when your points have been satisfactorily discussed and when the employee has had a full opportunity to discuss his concerns;

11. After the performance evaluation, continue to show interest in the employee's performance and job satisfaction; and

12. Keep the channels of communication open.

VII. MAINTAINING A SAFE AND PRODUCTIVE WORKPLACE

Employers have a legal obligation to provide a workplace that is reasonably free from hazards, and they also have the obligation to take reasonable steps to insure that the individuals they employ and do business with will not cause intentional harm to other employees. These duties are contained in a variety of federal and state safe workplace laws, as well as common law negligence standards.

Occupational Safety and Health Act

Pursuant to the "General Duty Clause" of the federal Occupational Safety and Health Act, employers have a responsibility to safeguard employees from recognized hazards which may cause serious physical harm or death. Under this clause, OSHA has issued citations to employers for exposing their employees to workplace violence. OSHA has published guidelines for preventing workplace violence, indicating the agency's intention to continue to cite employers for workplace violence exposures under the Act's General Duty Clause.

Common Law Liability for the Harmful Acts of Employees to Others

OSHA is not the only law that requires employers to guard against workplace violence. Under the "common law" doctrine of negligent hiring or retention, employers must protect workers from individuals who have demonstrated a propensity to behave violently towards others.

An employer owes a duty of care to those with whom its employees forseeably will interact as a consequence of their employment. This duty imposes a legal obligation on employers to hire and retain only safe and competent employees. Breach of this duty can give rise to a cause of action for negligent hiring or retention. A cause of action for negligent hiring or retention may be found when an employer:

1. hires or retains an "incompetent" employee;

2. knows or should have known the employee was unfit to perform the job;

3. acts in a negligent manner (failure to act may also be negligent).

The injury to the plaintiff must have been foreseeable, and it must have been proximately caused by the employer's negligence.

To succeed in proving an employer liable for the harmful acts of an employee it has hired, a plaintiff must prove that the employee was unfit to perform the job for which he or she was hired or retained by showing a lack of credentials to perform the work, or conduct establishing incompetence or unsuitability.

The plaintiff also must prove that the employer had actual knowledge or would have known of an employee's incompetence had it made a reasonable inquiry

into the employee's background. In fact, an employer has a duty to make a reasonable inquiry based on the nature of the position, the risk posed by a person in that position to others, and the harm to others if that risk becomes reality.

An employer may have a duty to investigate based on the background of the individual to be hired or retained. Negligent hiring/retention cases commonly involve employees with criminal records, and employers must consider whether to conduct a criminal record check and what the consequences are of failing to make inquiries or conduct an investigation. Negligent hiring/retention cases may also involve individuals who have unlawfully harassed employees at a previous employer.

Assuming an employer knew or should have known an employee was unfit to perform the job, the plaintiff must prove: 1) a reasonably prudent person knowing such information would not have hired/retained the individual; or, 2) a reasonable employer would have taken other appropriate measures to minimize the risk posed by the employee.

The plaintiff also must prove that a person of ordinary care could have foreseen plaintiff's injury as a consequence of the employee's incompetence. In other words, should the employer have anticipated harm. Additionally, when looking at the facts after the event, was the injury, in fact, caused by the defendant's negligence.

Controlling the Risk of Negligent Hiring/Retention

Despite the challenges employers face in conducting the level of background investigation necessary to screen out potentially violent or disruptive employees, it is imperative for employers to take control of hiring and retention decisions and to have available the kinds of information necessary to make well-informed decisions. This necessitates knowledge of the restrictions on conducting background investigations, such as the federal Fair Credit Reporting Act and various state consumer protection laws, which apply to inquiries for employment purposes. Other restrictions apply to obtaining information about arrests and convictions. For example, the EEOC takes the position that disqualification of applicants based upon arrest records (which did not result in convictions) has an adverse or disparate impact upon minorities in violation of Title VII of the Civil Rights Act of 1964, as amended. Furthermore, some states limit an employer's ability to deny employment based upon a conviction record unless the conviction is job related (e.g., New York). In Georgia, the First Offender Act may preclude an employer from disqualifying an applicant based upon a conviction accorded "First offender status."

Nonetheless, employers can develop and implement screening processes, which stay within permissible bounds and safeguard the privacy rights of individuals while netting the kind of information that enables an employer to make a good hiring or retention decision. Indeed, in certain circumstances, such as where another employee has lodged a complaint of individual's violent, harassing or disruptive

behavior, the employer must undertake an investigation of the incident and may be required to delve into the individual's background. Knowing the rules beforehand will not only facilitate any necessary remedial action but will set a correct course for conducting a thorough and effective investigation.

Avoiding the Risk of Violating Rights of the Alleged Perpetrator

Dealing with a potentially dangerous employee may involve communicating about that individual to others, such as a supervisor, other employees, or in responding to a request for references from another employer. Any of these communications has the potential to expose an employer to a claim for defamation. Even an attempt to limit information provided during a reference check may create liability if a subsequent employer hires the worker and the worker injures another.

Defamation is defined as the communication or publication of false information, which discredits a person by damaging the individual's character or reputation, and the information must be published to a third party and result in harm to the individual, e.g., not being hired.

Employers have a "qualified privilege" (which is a defense to a claim of defamation) to communicate information about employees. This qualified privilege enables employers to freely communicate, without fear of defamation suits, only if the statement is made in good faith and communicated only to those who have a need to know. Employers are unnecessarily exposed to defamation claims whenever a statement is malicious or communicated to someone who does not "need to know" the information.

Another potential claim that may be asserted against an employer by an alleged perpetrator involves the "false imprisonment" of the individual. Employees who are physically detained without justification by their employer may state a claim for false imprisonment. False imprisonment is defined as "the unlawful violation of the personal liberty of another." Thus, employers should physically detain or restrain an employee only to control an extremely volatile circumstance with as little invasive force as possible and only until the appropriate policing authority arrives at the scene.

Incidents of workplace violence sometimes involve individuals who may invoke the protection of the disability discrimination laws, such as the American with Disabilities Act (ADA), to avoid the negative employment consequences of their actions. The ADA, prohibits employment discrimination against "otherwise qualified" individuals who meet the definition of disability on the basis of a mental or emotional impairment. An employee who is unable to refrain from physical violence or engages in violence or serious threatening behavior is, in all likelihood, not a "qualified" person under the ADA regardless of any established disability. However, liability for violating the rights of a disabled individual can be substantial, as can be the costs associated with defending claims of discrimination. Thus, an employer should be prepared to take the necessary action to deal with a mentally or

emotionally impaired individual within the limitations imposed by the ADA and other anti-discrimination laws.

Strategies for Taking Control of the Potential for Workplace Violence

Behavior or signs indicating the approaching storm often precede a violent or disruptive workplace incident. Recognizing those indicators and knowing how to lawfully take control of the situation before it becomes a workplace crisis could save lives, prevent injuries, and avoid workforce disruption and employer liability.

Warning Signs That May Precede Violent Behavior

1. Unusually high stress in the workplace, e.g., among employees who remain after a reduction in force.

2. Physically intimidating behavior or threats by an employee.

3. Significant changes in an employee's personal or work habits.

4. Expressions by an employee of unusual or bizarre thoughts or introverted behavior following the lodging of complaints.

5. An employee's fixation with weapons signaled by repeated discussion of weapons or exhibiting a weapon to get the reaction of other employees.

6. Depression.

7. Recent discipline for inappropriate behavior or harassment.

8. Self-destructive behavior, such as abuse of drugs or alcohol.

9. Marital or family problems.

10. Employees who appear angry or paranoid.

11. Employees with a history of interpersonal conflict.

12. Obsessive behavior of a hostile or romantic nature towards co-workers.

Implementation of Protective Measures

To reduce the risk for employees, customers and others, employers (with employee input) should implement protective measures based on information about workplace risk factors and take steps which would reduce or eliminate the risk. To achieve this, an employer should consider:

1. installation of security lighting around the employer's premises;

2. provision of adequate security in parking areas, common areas, stairwells, cafeterias, and lounges;

3. limiting access to work areas to employees and authorized visitors only;

4. prohibiting former employees from entering the premises without prior authorization;

5. installation of alarms and surveillance cameras, where appropriate;

6. increasing staff to void any employee working alone;

7. training supervisors and employees in conflict resolution and non-violence techniques;

8. scheduling regular rounds of police surveillance of the premises;

9. limiting access to the premises during high risk hours (e.g. late at night and early in the morning);

10. conducting thorough background investigations on job applicants (as described earlier);

11. providing counseling and outplacement for employees whose employment has been involuntarily terminated.

VIII. AN OVERVIEW OF THE FAMILY AND MEDICAL LEAVE ACT ("FMLA")

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth , or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in the outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the

employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer's Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Jackson Lewis can provide you with policies for FMLA and other types of leave.

IX. EFFECTIVE AND LAWFUL DISCIPLINE AND DISCHARGE

In a perfect world, all employees would perform above and beyond expectations, would follow all job rules, and would consistently seek professional growth and improvement. Unfortunately, this is not a realistic picture of the employment relationship. Accordingly, at some point all employers will be required to issue discipline or corrective action to employees.

Problems often arise when employers fail to discipline employees when discipline should be administered. They may fail to act out of fear, simple neglect, and/or an aversion to conflict. Sometimes, they just think that the employee will eventually "turn around" without the need for formal discipline. The result is that an employee who is not performing up to acceptable levels continues his or her unacceptable behavior unchecked. Further, the offending employee believes his or her behavior is acceptable to the supervisor and the company—after all, he or she is not being disciplined for it. And worse, other employees become demoralized because they are following company standards and work rules while the offending employee is not, seemingly without repercussion. Good performers often feel betrayed by their employers because management has refused to consistently enforce its own rules. Employees must work harder to pick up the slack created by the offending employee. The end result is that the employees resent the company and the supervisor for not correcting the situation.

By following company policy and procedures and issuing discipline in a consistent and fair manner, an employer lends credibility to the company's rules. This discipline also does a service to the offending employee, as he is not misled to believe his behavior or performance is acceptable. Rather, he has been advised that future misbehavior or poor performance will be met with further discipline up to and including discharge. This is the intent and the benefit of a positive, progressive discipline system. It is not designed to terminate employees, but rather to save employees. The positive effects of discipline are realized through teaching employees the skills needed, communicating expectations and establishing parameters.

Use the following concepts as a guide when developing your company's positive, progressive employee discipline system.

1. The "ABCs" of Discipline - **A**lways **B**e **C**onsistent and **D**ocument **E**verything.

2. Remember the word "NO." Progressive discipline should consist of: **N**otice of unacceptable behavior, and an **O**pportunity to correct that behavior. For any progressive discipline system to work, whether it is a first warning, second warning, final warning and discharge or otherwise, the key factors are (1) clear communication of what is expected of employees and the consequences of failure to comply with employer's standards and rules and (2) an opportunity to have the employee correct misconduct.

Of course, there are certain offenses, such as theft, fighting, and sleeping on the job, which traditionally result in immediate termination. One word of caution—never "knee jerk" a reaction to employee misconduct. No one, not the owner of the company, president or otherwise, should ever immediately terminate any employee under any circumstances. Rather, the employee should be suspended pending investigation. By terminating immediately, especially in anger, an employer loses one of the most valuable assets it has—time to consider the facts in a reasoned, calm way, consult with other managers and supervisors, consult with legal counsel, and determine whether there has been similar misconduct in the past and how that misconduct was addressed.

Disciplinary action should be documented in an employee's personnel file. Rather than developing a standardized form, however, the best method of such documentation is to document each occurrence on a blank piece of paper. Supervisors should be trained to clearly write the facts regarding each disciplinary manner. The questions, "who, what, where, when, why and how," should be answered in each disciplinary record. The supervisor should then sign the disciplinary record, date it, and provide a copy of the record to the employee. It is not necessary to have the employee actually sign a record, for the record to be valid.

<u>Discipline/Discharge Checklist</u>

1. What is Company policy? Is it written or oral?

2. Is the rule published? If so, where? Does it specify the penalty?

3. Is the rule stated in easy-to-understand wording?

4. Is the violated rule or order reasonably related to the orderly, efficient and safe operation of the company?

5. How has the policy been applied in the past? If other employees have violated this rule or order, did they receive the same disciplinary action as this employee?

6. Did the employee know the rule or should he or she have known it?

7. Have appropriate others been consulted (i.e., management, legal counsel)?

8. Have you investigated? Are you sure you know all the facts accurately?

9. Was the incident that triggered the discipline carefully investigated prior to taking serious or final disciplinary action?

10. Has this employee previously violated the policy? If so, when? Was the employee counseled or disciplined? Was this past counseling or discipline documented?

11. Has this employee's performance been evaluated? Has there been a recent positive evaluation and/or pay increase based on merit?

12. Is there any documentation in the employee's file regarding the employee's work history and any prior disciplinary action? Oral warnings? Written warnings? Suspension?

13. How serious was the offense? Does the punishment fit the crime?

14. Is there a factual, written record showing steps taken by the company to correct this employee's improper actions prior to serious disciplinary action?

15. When did the infraction occur? How soon after the act in question is the discipline being administered?

16. What evidence of the violation do you have (i.e., witnesses)?

17. Is the employee protected under any local, state or federal equal employment law?

18. Is there any union implication?

19. Was the employee confronted? Did the employee offer any excuses or mitigating circumstances to justify the action in this instance? Were they reasonable?

20. Has the Company done anything to support a reasonable belief by the employee that his or her action was acceptable?

21. For discipline or termination based on attendance, have any absences held against the employee been certified for FMLA leave? Should they have been?

X. CONCLUSION

We hope that this desk book will provide you with some of the resources necessary to develop an effective positive employee relations program at your company. The key to maintaining positive employee relations is not only providing competitive wages and benefits, but also providing employees with an environment that recognizes them as individuals. While the institution of a positive employee relations program will take time and effort, we truly believe that such investment will be repaid many times over in a stable, productive workforce.